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ORIGINAL

GUAM/HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES



Department of Land Management Conference Room ITC Building, Tamuning



Thursday, February 22, 2018 1:40 p.m. to 5:12 p.m.

GUAM/HYBRID LAND USE COMMISSION REGULAR MEETING Department of Land Management Conference Room 3rd Floor, ITC Building, Tamuning, Guam Thursday, February 22, 2018

GLUC MEMBERS PRESENT:

Mr. John Z. Arroyo, Chairman

Mr. Victor F. Cruz, Vice Chairman

Ms. Conchita D. Bathan, Commissioner

Mr. Tae S. Oh, Commissioner

Mr. Hardy I.T. Vy, Commissioner

HYBRID MEMBERS PRESENT:

Ms. Louise Rivera, Mayor of Tamuning-Tumon-Harmon

Ms. Melissa Savares, Mayor of Dededo

Mr. Jessy Gogue, Mayor of Ordot-Chalan Pago

STAFF PRESENT:

Mr. Michael J.B. Borja, Executive Secretary

Mr. Marvin Aguilar, Guam Chief Planner

Mr. Frank Taitano, Planner IV

Mr. Penmer Gulac, Planner IV

Ms. Celine Cruz, Planner IV

Ms. Grace Vergara, Planner II

Ms. Cristina Gutierrez, Recording Secretary

Excused: Legal Counsel Nicolas Toft

GUAM LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION Attendance Sheet

Department of Land Management Conference Room 590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

Thursday, February 22, 2018 Time of Meeting: GLUC: 1-40pm GSPC:	X GLUC GSPC X Regular Regular Special Special Quorum Quorum No-Quorum No-Quorum
COMMISSION MEMBERS	SIGNATURE
Chairman John Z. Arroyo Vice Chairman Victor F. Cruz Commissioner Conchita D. Bathan Commissioner Tae S. Oh Commissioner Hardy T.I. Vy	What was a second of the secon
Michael J.B. Borja, Executive Secretary	us.
Nicolas E. Toft, Legal Counsel (OAG)	ALGENT (E YELLRED)
Marvin Q. Aguilar, Chief Planner Frank Taitano, Planner IV Penmer Gulac, Planner IV Celine Cruz, Planner IV M. Grace Vergara, Planner II M. Cristina Gutierrez, WPS II	tage Totales (SUMM) Marketieres

ADJOURNMENT:

GLUC: 5 12PM GSPC:

GLUC Form 19 - GLUC Commission Attendance Sheet

GLUC/HYBRID LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION Attendance Sheet

Department of Land Management Conference Room 590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

Date of Meeting: Thursday, February 22, 2018	X GLUC X HLUC X Regular
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COMMISSION MEMBERS	SIGNATURE
Chairman John Z. Arroyo	
Vice Chairman Victor F. Cruz	O.C.
Commissioner Conchita D. Bathan	Edleatz
Commissioner Tae S. Oh	
Commissioner Hardy T.I. Vy	(GEE FURST Page)
HYBRID COMMISSION; LZ COMPANY, APPLICATI	ON NO. 2017-39 (MCoG DLM 2018-02)
Mayor Louise Rivera, Tamuning-Tumon-Harmon	DOPAV.
Mayor June Blas, Barrigada	MOSENT
Mayor Melissa Savares, Dededo	1 bull
Mayor Jessy Gogue, Chalan Pago-Ordot	Ont X
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GLUC: 6 12 HLUC: 4 45pm ADJOURNMENT:

GLUC Form 19 - GLUC Commission Attendance Sheet

GUAM LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION

Speaker's Sign-In Record

Location: Department of Land Management Conference Room 590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

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GUAM LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION

Public Attendance Record

Location: Department of Land Management Conference Room 590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

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Merina Panilas	NPTS /	
Lagrimas Camacho	NPLJ	
MICHAEN INAKIO	TRINA-+	475.8772
MATTHEW BEAZ	NPLS	4872592
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JAY ARRIOLA	LZ PLAZA	
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GUAM LAND USE COMMISSION



Chairman John Z. Arroyo Vice Chairman Victor F. Cruz Commissioner Conchita D. Bathan Commissioner Tae S. Oh Commissioner Hardy T.I. Vy

Michael J.B. Borja, Executive Secretary Nicolas E. Toft, Legal Counsel (OAG)

AGENDA

Regular Meeting Thursday, February 22, 2018 @ 1:30 p.m.

Department of Land Management Conference Room 590 S. Marine Corps Drive, 3rd Floor, ITC Building, Tamuning [As advertised in the Guam Daily Post on February 15th and February 20th, 2018]

I.	Notation of Attendance	[] Quorum	[] No Quorum
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- II. Approval of Minutes
 - GLUC Regular Meeting of Thursday, February 8, 2018
- III. Old or Unfinished Business

Zone Change

A. <u>Application No. 2017-12.</u> Applicants, Rosalina E. Werkkunen and Leonora E. McGeough represented by Harry D. Gutierrez; Zone Change request from "A" (Rural) to "C" (Commercial) zone, on Lots 1-3-R1 and 1-2, Tract 1141, in the Municipality of Dededo. Case Planner: Penmer Gulac [Continuation – GLUC Hearing 02/08/2018]

IV. New Business

Zone Variance

B. Application No. 2017-45, Applicant, Docomo Pacific, Inc. request for a Zone Variance Height and Use for the construction on a 100-foot telecommunication monopole tower, on Lot 7007-3-R3, in an "C" (Commercial) zone, under Application No. 2016-45.

Case Planner: Frank Taitano

V. Administrative & Miscellaneous Matters

Horizontal Property Regime

C. Application No. 2014-07D, Applicant, Allegro Properties Corporation represented by Atty. Melinda Swavely, Esq.; requests issuance of its Second Supplementary Final Public Report for Avida Townhomes, on Lot 5360-R19NEW-4, in the Municipality of Mangilao, in an "R-2" (Multi Family Dwelling) zone, HPR No. 168.
Case Planner: Celine Cruz

VI. Adjournment

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning Thursday, February 22, 2018 • 3:15 p.m. to 5:12 p.m.

I. Notation of Attendance

Chairman Arroyo reconvened the regular meeting of the Guam Land Use Commission meeting for Thursday, February 22, 2018 at 3:15 p.m., noting a quorum.

Present were: Chairman John Arroyo, Vice Chairman Victor Cruz, Commissioner Conchita Bathan, Commissioner Tae Oh, Commissioner Hardy Vy, Executive Secretary Michael Borja, Guam Chief Planner Marvin Aguilar, Planning Staff Frank Taitano, Celine Cruz, Grace Vergara and Recording Secretary Cristina Gutierrez.

II. Approval of Minutes

<u>Chairman Arroyo</u> first item on the agenda is the review and approval of the February 8th, 2018 minutes. Commissioners have had a chance to review, Chairman Arroyo was ready to entertain a motion.

<u>Commissioner Bathan</u> makes a motion to approve the Minutes of February 8, 2018 subject to any minor edits to be submitted to Cristina by close of business today.

Chairman Arroyo motion is made by Commissioner Bathan. Is there a second.

Vice Chairman Cruz seconds the motion.

<u>Chairman Arroyo</u> motion was seconded by Vice Chair Cruz, no discussion noted. All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioners Bathan, Oh, and Vy], all opposed say "nay."

[Motion passed to approve the February 8, 2018 GLUC Minutes; 5 ayes, 0 nay]

<u>Chairman Arroyo</u> the agenda that is before the Commission, are there any changes to the order of the agenda.

<u>Commissioner Bathan</u> requested to move Item C under Administrative and Miscellaneous Matters to the front of the agenda.

<u>Chairman Arroyo</u> had no problem with the request; and, no objections noted from the Commissioners.

Next item on the agenda -

V. Administrative & Miscellaneous Matters

Horizontal Property Regime

C. <u>Application No. 2014-07D</u>, Applicant, Allegro Properties Corporation represented by Atty. Melinda Swavely, Esq.; requests issuance of its Second Supplementary Final Public Report for Avida Townhomes, on Lot 5360-R19NEW-4, in the Municipality of Mangilao, in an "R-2" (Multi Family Dwelling) zone, HPR No. 168. Case Planner: Celine Cruz

<u>Celine Cruz</u> summarizes staff report for purpose, facts, staff analysis/discussion, recommendation and conditions. [For full content of staff report, please refer to attached report.]

[Attachment C - Staff Report dated February 13, 2018]

<u>Chairman Arroyo</u> questions for staff. None noted, Chairman Arroyo opened the floor to the applicant's representative.

<u>Melinda Swavely</u> (Attorney for Allegro Properties) Ms. Swavely stated that she had nothing to add to Ms. Cruz's report; and, ready to entertain any questions that the Commissioners might have.

<u>Chairman Arroyo</u> questions for the applicant. [None noted] Chairman Arroyo stated that since this is an issuance of a second supplementary public report, public comments are not necessary. Chairman Arroyo was ready to entertain a motion on the request.

Commissioner Oh moved to recommend the issuance of the second supplementary final public report for the applicant Allegro Properties Corporation represented by Melinda Swavely for Avida Townhomes on Lot 5360-R19-NEW-4, in the municipality of Mangilao, in an "R2" zone, under HPR No. 168; for a period of 13-months to expired on March 22, 2019.

Chairman Arroyo motion made by Commissioner Oh, is there a second.

Commissioner Bathan seconds the motion.

<u>Chairman Arroyo</u> motion is seconded by Commissioner Bathan. Noting no discussion, the motion was put to a vote. All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Oh, Commissioner Bathan, Commissioner Vy], all opposed say "nay."

[Motion passes; 5 ayes, 0 nay]

Chairman Arroyo recesses the regular meeting of the Guam Land Use Commission to reconvene the second Hybrid Commission.

Chairman Arroyo reconvened the regular meeting of the Guam Land Use Commission at 4:45 p.m.

III. Old or Unfinished Business

Zone Change

A. <u>Application No. 2017-12</u>, Applicants, Rosalina E. Werkkunen and Leonora E. McGeough represented by Harry D. Gutierrez; Zone Change request from "A" (Rural) to "C" (Commercial) zone, on Lots 1-3-R1 and 1-2, Tract 1141, in the Municipality of Dededo. [Continuation – GLUC meeting of 2/2/2018]

Case Planner: Penmer Gulac

<u>Chairman Arroyo</u> for the record, Commissioner Tae Oh has left the meeting; he stated that he has a conflict with this application and the Docomo Pacific application following this application, and has recused himself. There are four commissioners remaining; Chairman Arroyo, Vice Chairman Cruz, Commissioner Bathan, and Commissioner Hardy Vy, and there is still a quorum.

Marvin Aguilar presented a brief chronology of events for this application. The application was first heard on November 28, 2017; and, could move forward due to the absence of an Agricultural Impact Statement. An AIS was received and was placed on the GLUC agenda for February 8, 2018; however, there was a technical issue with the billboard sign and was continued for a second time. The required billboard sign has been corrected, and the applicants' consultant is now before the Commission to request for approval. It was noted that the application was presented and previously discussed by the Commission.

<u>Chairman Arroyo</u> there were no questions and/or comments from the Commissioners, Chairman Arroyo opened the floor to Mr. Gutierrez.

<u>Harry Gutierrez</u> there are six lots involved, four have been rezoned commercial with the exception of these two lots before the Commission today. The rezoning of these two lots, if approved, will have the whole block zoned commercial.

<u>Chairman Arroyo</u> no additional questions noted, Chairman Arroyo opened the floor for public comments.

<u>Public Comments</u> [Seeing none, Chairman Arroyo closed the public comment period for this application.]

Chairman Arroyo no other comments noted, Chairman Arroyo requested for a motion.

<u>Vice Chairman Cruz</u> Mr. Chairman, I would like to make a motion to approve the Applicants, Rosalina E. Werkkunen and Leonora E. McGeough represented by Harry D. Gutierrez; Zone Change approval from "A" (Rural) to "C" (Commercial) for the proposed construction of a

commercial structure on each lot to be leased for retail, office space, storage warehouse as an accessory structure, on Lots 1-3-R1 and 1-2, Tract 1141, in the municipality of Dededo.

Chairman Arroyo motion on the floor by Vice Chairman Cruz, is there a second.

Commissioner Vy seconds the motion.

<u>Chairman Arroyo</u> seconded by Commissioner Vy; discussion [None noted]. On the motion, all in favor say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Vy and Commissioner Bathan], all opposed say "nay."

[Motion passed; 4 ayes, 0 nay, 1 recused (Commissioner Oh)]

Chairman Arroyo next item on the agenda -

Commissioner Vy stated that he had a personal conflict with the next item on the agenda and requested that he be recused from participating.

Chairman Arroyo noted for the record; Commissioner Vy was recused.

IV. New Business

Zone Variance

B. Application No. 2017-45, Applicant, Docomo Pacific, Inc.; request for a Zone Variance for Use and Height for the construction of a 100-foot telecommunication monopole tower, on Lot 7007-3-R3, in a "C" (Commercial) zone, in the Municipality of Yigo.
Case Planner: Frank Taitano

<u>Frank Taitano</u> reads the staff report to include purpose, facts, public hearing results, staff analysis/discussion, recommendation and conditions. [For full content/context, please refer to attached report.]

[Attachment B - Staff Report dated February 9, 2018]

<u>Chairman Arroyo</u> questions for staff? [None noted] Chairman Arroyo opened the floor to the applicants.

<u>Diana Guzman</u> (with Jowell Lapira) they are before the Commission today to seek approval for their ninth and final monopole project for Docomo. Ms. Guzman stated that this application was pretty much the same as the previous eight monopole applications that have been before the Commission and was ready to answer any questions that the Commission may have.

Chairman Arroyo questions.

<u>Vice Chairman Cruz</u> looking at the application (Part 3), asked which building was shown on the site plan.

<u>Jowell Lapira</u> it is the Church's social hall; when facing from Marine Corps Drive, the tower will be located to the left of the social hall.

Vice Chairman Cruz how close will the tower be to the building.

<u>Jowell Lapira</u> it will be about 10-feet from the pole. The contractor conducted a study on how to construct the foundation without affecting the integrity of the building. A retaining wall be erected during the construction of the pole. In addition, the way the foundation will not be done by normal digging; but, will be an ogre type digging, and the contractor has purchased the machine specifically for this project.

Vice Chairman Cruz is the furthest north that Docomo will go for towers.

<u>Diana Guzman</u> there are co-locations with I-Connect just before the Andersen front gate, and one inside the Base closest to the Commissary.

Jowell Lapira this will be the last pole for the north.

[Discussion ensues]

Vice Chairman Cruz is concerned that the towers are being located too close to buildings.

<u>Diana Guzman</u> within the vicinity of the church that was the only area that was available. When they looked at an area further towards the back portion of the church, according to Father Alvarez, he stated that there were issues and did not approve that corner of the church and suggested that it be located behind the social hall.

Vice Chairman Cruz are there any industry standards on how far poles are to a building.

<u>Jowell Lapira</u> there are none, provided that the poles are designed specifically for a location. For this pole, it will go deeper rather than a wider foundation.

Vice Chairman Cruz are there any other sites.

<u>Jowell Lapira</u> we had a restriction of 200-feet search radius. Beyond that, the signals will be overlapping.

<u>Diana Guzman</u> Gresco across the street from the church was approached; but there were safety issues because of Gresco's type of business being a gas company.

[Discussion ensues]

Commissioner Bathan asked how many more pending projects Docomo had for towers.

<u>Diana Guzman</u> one last application which is located in the YSengSong area. It is located across Park Market.

[Discussion ensues on the next location for the pending tower project.]

<u>Chairman Arroyo</u> there were no additional questions and/or comments, Chairman Arroyo opened the floor for public comments.

<u>Public Comments</u> [Seeing none, Chairman Arroyo closed the public comment period for this application.]

<u>Chairman Arroyo</u> no additional comments noted, Chairman Arroyo was ready to entertain a motion for this application.

Commissioner Bathan Mr. Chairman, I would like to make a motion to approve the request for a Zone Variance for Height and Use for the construction of a 100-foot telecommunication monopole tower on Lot 7007-3-R3, in a "C" (Commercial) zone, in the municipality of Yigo, under Application No. 2017-45; subject to the following conditions:

- Applicant shall adhere to all the ARC conditions and requirements as stated in their official position statements; and,
- Applicant shall ensure compliance with the one-year time restriction that states that a
 grading or building permit must be obtained from the date of recordation of the Notice of
 Action, otherwise the approval as granted by the Commission be NULL and VOID per
 E.O. 96-26, Section 5.

Chairman Arroyo motion on the floor made by Commissioner Bathan, is there a second.

Vice Chairman Cruz seconds the motion.

Chairman Arroyo seconded by the Vice Chairman. Discussion.

Vice Chairman Cruz does Docomo have liability insurance for all pole locations.

Diana Guzman yes, and the amount has been increased from one-million to three-million dollars.

<u>Chairman Arroyo</u> (no additional comments) All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz and Commissioner Bathan], all opposed say "nay."

[Motion passed; 3 ayes, 0 nay, 2 recused (Commissioners Oh and Vy)

Chairman Arroyo that is it for the items on the agenda. Is there anything else to discuss.

V. Administrative and Miscellaneous Matters

<u>Michael Borja</u> Commissioners were reminded that the GEC forms on the Conflict of Interest Financial Disclosure that are due to GEC on Friday, April 20, 2018.

<u>Chairman Arroyo</u> no additional comments/discussion noted; Chairman Arroyo entertained a motion to adjourn.

VI. Adjournment

Commissioner Bathan makes a motion to adjourn today's meeting, seconded by Vice Chairman Cruz; with all in favor.

The regular meeting of the Guam Land Use Commission for Thursday, February 22, 2018 was adjourned at 5:12 p.m.

Approved by:	Date:
John Z. Arroyo, Chairman	4/2/18
Guam Land Use Commission	
Transcribed by:	
M. Cristina Gutierrez, Recording Secretary	

Planning Division, DLM

ATTACHMENT A

Street Address: 590 S. Marine Corps Drive Suite 733 ITC Building Tarnuning, GU 96913

> Mailing Address: P.O. Box 2950 Hagātňa, GU 96932

Website: http://land.guam.gov

E-mail Address: Ilmdir@land.guam.gov

Telephone: 671-649-LAND (5263)

> Facsimile 671-649-5383





10

RAY TENORIO Lieutenant Governor

EDDIE BAZA CALVO

Governor

DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÅHAN (Government of Guam)



MICHAEL J B. BORJA Director

DAVID V. CAMACHO Deputy Director

January 31, 2018

MEMORANDUM

TO:

Chairman and Commissioners, Guam Land Use Commission

FROM:

Guam Chief Planner

SUBJECT:

Supplemental Staff Report - Continuation for review, Ref, Application No. 2017-12, Zone Change, Lots 3-1-R1 & 1-2, Tract

1141, NCS, Dededo; GLUC Meeting of February 8, 2018

- 1. For Commission's review of above said application; reference revision of required Agricultural Impact Assessment (AIS) to support the zone change application; Note: Commission's last review of December 14, 2017; and
- 2. Planning Division has received the revised AIS and is acceptable for further consideration as an attachment for review by the Commission.
- 3. Recommendation: Planning further Recommends Approval

Mary p Q Aguilar Guam Chief Planner

Case/Project Planner:

Penmer C. Gulac, Planner IV

Attachments:



02-02-2018

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671-734-6569

Eddic Baza Colvo Governor

Ray Tenorio Lt. Governor

12:18:53 p.m. Dipattamenton Agrikottura

Director's Office Agricultural Development Services Plant Nursery Aquatic & Wildlife Resources Forestry & Soil Resources Plant Inspection Station **Animal Health**

300-7970 / 7969 / 7966 300-7973 / 7972 / 7967 300-7974 735-3955/56; Fax 734-6570 300-7975/6 475-1426/27; Fax 477-9487 300-7965 Fax 734-6569



Matthew L.G. Sablan Director

Jessie B. Palican Deputy Director

December 11, 2017 Memorandum

0:

Director, Department of Land Management

Attru:

Executive Secretary, Guam Land Use Commission and Guam Seashore Protection

Commission

From:

Director of Agriculture

Subject:

"Agricultural & Environmental Impact Statement" for a "Zone Change" request from an "Agricultural" to a "Commercial" for application 2017-12 on Lots 1-3-R1 Tract 1141(Workkunen) & 1-2 Tract 1141(McGeough) Located in Dededo. (Rosalina E. Werkkunen & Lenora E. McGeough c/o Harry D. Gutierrez).

Agriculture has reviewed the subject lot for a "Zone Change" request from an Agricultural to a Commercial zone and has no opposition to the proposed zone change. Our agency will recommend approval of the zone change with the following statements, conditions and requirements set forth in 21 GCA Chapter 61 Section 61637 as our preliminary inspection of the site found no adverse impact to Agricultural activity and to any Endangered Species and other protected Coastal Zones, Wetland habitat and Watersheds.

The proposed zone change for the two, Lots 1-3-R1 Tract 1141(Workkunen) & 1-2 Tract 1141(McGeough) are located in an area that has been used in the past for various farming and ranching activities. However, currently no such "Agricultural" activity has been identified for the 2 lots with only sparse and subsistence small scale gardening occurring on surrounding lots. Therefore based on the preliminary inspection no adverse impact to any agricultural activity and to native habitats where observed either within the property scope or to surrounding properties. With regard to any immediate damage to the environment should the project proceed our agency will require the following conditions to be met and implemented onto the project site once any clearing and grading is to take place. Firstly, should the proposed zone change be approved and the project moves into any proposed build phase be aware that the proper "Cleaning and Grading permits" must be obtained and registered with the Department of Public Works One Stop section with all the regulatory agencies signed off on the permit in order to proceed with mass clearing and grading of the site. No land clearing activity is to occur prior to securing the proper permit.

As rapid development occurs in the most heavily populated area of the island the destruction and removal of native tree species increases the potential for pollution and the loss of Guam's Northern Aquifer the primary source of drinking water that supplies the island. As such our agency requires that a comprehensive landscaping plan address this deficiency in development of the northern part of the island and as it relates to this zone change and any proposed development of the sites. Agriculture recommends that the lots designated for build will have elements of a green zone dedicated to it, as part of the overall landscaping plan. If this includes parking and green zones not identified in the application the use of native trees that originate in this area is highly recommended as they are suitable and will adapt readily to the existing soils. Simply re-planting of native trees in a dedicated section of the lot(s) or allowing the existing fauna to remain as is, is vital in maintaining the aquifer and the surrounding habitat to allow for a healthy and vibrant eco-system. The root system of these trees helps to prevent erosion and assists in filtering out synthetic contaminants and other manmade chemicals that would otherwise make its way into the aquifer and polluting it. The Department of Agriculture has several programs and personnel that can assist you in developing a plan to address this issue.

Please contact our Agricultural Development Services & Forestry divisions here at the agency for further assistance and guidance at 300-7972 & 7976 respectively. Our Forestry division grows and maintains these native tree species should you choose to incorporate them into the project. Contact their office for assistance and consultation at 300-7976. Please be aware that the increased loss of Guam's native habitat contributes to a diminished capacity to sustain and support a healthy island community. It is vital that all land developers take a proactive step in preventing and causing this loss. To fully benefit and see these eco-friendly practices being used visit our Department of Agriculture Organic and Environmental Demonstration Farm. The demonstration farm displays various planting techniques that will aid in the incorporation of flora back into the landscape to ease and possibly eliminate further damage to the environment by erosion and leeching. The planting of native trees will add to the aesthetic appeal of the development as it uses the trees that were once abundant in this part of NCS Dededo. The trees will also serve to provide shading for its residents, windbreak capabilities during heavy weather, erosion control, filtration of runoff and a more nature driven development that takes into account Guam's vital natural resources.

For questions or concerns regarding Agriculture's position please contact our office at 300-7973. Thank you in this regard.

MATTHEW L.G. SABLA

Director

Street Address: 590 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

> Mailing Address: P.O. Box 2950 Hagåtña, GU 96932

Website: http://dlm.guam.gov

E-mail Address: dlmdir@land.guam.gov

Telephone: 671-649-LAND (5263)

Facsimite: 671-649-5383



DIPATTAMENTON MINANEHAN TÂNO' (Department of Land Management)

Department of Land Management)

GUBETNAMENTON GUÄHAN

(Government of Guam)



MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

EDDIE BAZA CALVO Governor

RAY TENORIO Lieutenant Governor

November 3, 2017

MEMORANDUM

2 3HH ?

TO:

Chairman, Guam Land Use Commission

FROM:

Guam Chief Planner

SUBJECT:

Staff Report - Application No. 2017-12, Zone Change, Lots 1-3-R1 &

1-2, Tract 1141, NCS, Dededo.

1. PURPOSE:

- a. Application Summary: The Applicants, Rosalina E. Werkunnen & Leonora E. McGeogh represented by Harry D. Gutierrez, is requesting approval of a Zone Change from "A" (Agricultural) to "C" (Commercial) Zone for the proposed construction of commercial buildings on each lot to be used for retail, office spaces, with materiel storage warehouse as an accessory structure with vehicular and equipment parking, on each lot, and other uses permitted within an "C" zone, located on Lots 1-3-R1 & 1-2, Tract 1141, NCS, Municipality of Dededo.
- **b.** Legal Authority: Title 21, Guam Code Annotated, Chapter 61, Title 21, Article 6, Part 3 (Changes of Zones), Sections 61630 thru 61638, Zoning Law.

2. FACTS:

- a. Location: The two lots and site are fronting Route No. 3, and near a U.S. Navy Petroleum Oil Lubricant (POL) utility pipeline/easement at the rear of the lots. The lots are approximately 500-600 feet west of Ukudu High School (See ATACHMENT 1).
- b. Present Zoning: "A" (Agricultural) Zone

c. Lot Areas to be rezoned are as follows:

- Lot 3-1-R1: Area: 2,308 Square Meters or 24,843 Square Feet or .62 Acres
- ii. Lot 1-2: Area: 3,237 Square Meters or 34,842 Square Feet or .87 Acres
- iii. <u>Total Areas of Lots: 27,401 square meters or 295,023 square feet or 1.4975 acres</u>
- d. Field Description: The proposed development site and lots are vacant with overgrown vegetation. The topography of both lots are fairly flat and slopes toward Route No. 3. On the southern border abutting Lot 1-3-R1, Lot -4 was recently rezone to "C" by the GLUC for similar development and abuts a single-family dwelling. There are a few residential duplexes to the east and single-family dwellings as well within the eastern boundary within 500 feet. A U.S. Navy (POL) utility line/easement abuts Lot 1-2 on the eastern lot lines. Sporadic residential homes, vacant lots and small farming (subsistence) still exist. All utility infrastructures are within 100-200 feet of the subject lots.
- e. Masterplan: Residential Agricultural
- f. Community Design Plan: Conservation
- g. Previous Commission Action: None.

3. APPLICATION CHRONOLOGICAL FACTS:

- a. Date Heard By ARC: March 16, 2017
- **b.** Public Hearing Results of: October 24, 2017 (See Attachment)

4: STAFF ANALYSIS:

A Zone change must address <u>Public Necessity</u>, <u>Public Convenience</u> and <u>General Welfare</u> criteria. The applicant provides the following:

Public Necessity

The applicant purports this area is developing into more commercial and light industrial activities, was in response to the initial military build-up assumptions and to develop commercial activities along the major thoroughfare (Route No. 3). There will be expected population growth in the north and support activities for the military build-up. The proposed uses on the sites and activities will provide the community with more retail, office spaces and special commercial services in the coming years and beyond. There will be greater demand for all goods and services on the island that will serve the island community;

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Public Convenience

The applicant provides that the proposed commercial, retail and offices and proposed uses on the property would be consistent with the current land uses near Dos Amantes and nearby area within 500-1,000, to 2,000 feet in the NCS/UKUDO area. The location is central and convenient to areas with large population, and is very near the airport and commercial districts requiring retail, goods and services; and

General Welfare

With respect to protecting the general welfare of the area, the applicant states that the proposed rezoning and uses will protect the general public, the immediate surroundings and properties by being consistent for commercial activities that is on-going at the present time and for future uses and requirements that is permitted in a commercial zone. The owners/applicant will ensure that all permitting requirements and conditions of the land use commission and all government are adhered to as well as to minimizing impacts to the immediate surroundings and to the general public and specially our environment and the water lens below (part of the Northern Recharge Area). Development on the sites will provide employment of local residents and contribute positively to improving the island's growing economy. Department of Agriculture has not submitted its Agricultural Impact Assessment (AIS), their recent assessments of other lots nearby were assessed with no significant impacts to nearby agricultural activities or proposed commercial and light industrial development.

Our analysis is as follows:

We concur with findings provided by the applicant with respect to a clear and present change of community overlay within the general area. In light of ongoing interest in the development of commercial activities to support the expansion of military facilities and our long-standing position to encourage non-residential land uses along routed roads, we find that within such areas, and particular those straddling along Route 3 and across the Dos Amantes master plan area, serve as prime locations to support eminent growth of support services to military facilities and growing residential development on its outskirts.

We remain cognizant of the fact however, development sprawl in the area remains in its infancy, thus presents an opportunity for the government to consider appropriate land use master planning efforts to control sprawling of both commercial and residential activities in the immediate and foregoing areas.

3 Page

Regardless of our position of concurrence, as of preparation of this staff report, an Agricultural Impact Statement has yet to be officially submitted for our assessment and inclusion into this report. Pursuant to \$61637 of the zoning code, "No additional land may be established as a rural zone and no land presently zoned "A" may be rezoned without the Commission first having considered an agricultural impact statement which shall be submitted by the Director of the Department of Agriculture. This statement shall provide a detailed statement of:

- a. The agricultural impact of the proposed rezoning upon the agricultural components of the Guam Master Plan.
- b. Any adverse conservation or agricultural effects which cannot be avoided should the rezoning be approved.
- c. The Director's opinion whether said rezoning should be approved and reasons therefore.

As is the case, we have no recourse but to recommend this request for a change of zone be **TABLED** until such document is provided for further consideration.

Marvin Q. Aguilar Guam Chief Planner

CASE PLANNER: PC Gulac

Attachments: ARC Memo to GLUC Members

Attachment:

Public Hearing Results of:

October 24, 2017; GLUC Application No. 2017-12

Public Hearing Called to Order at 6:05 pm; A total of 5 persons were in attendance. Mayor Savares, neighbors and abutting lotowers and consultant and Planning Staff

The Case Planner presented the proposed project and read the positions statements from Department of Public Works, Guam Waterworks Authority, Guam Power Authority, Bureau of Statistics and Plans, Guam Power Authority and Parks and Recreation--Historical Preservation Office. Mr. Harry Gutierrez highlighted details of the application; discussed the time frame of the application process, construction and completion time and other pertinent information on the proposed development as well as infrastructure requirements; access to the site and area of development near Route No. 3..

Public comments and concerns that were noted are as follows:

Mr. and Mrs. Los Banes, (property owner and neighbor):

Question addressed to Case Planner: Is the Government of Guam addressing any improvements to public sewer connections in the area since the lots will be developed for commercial uses, offices, etc..

Response (from Case Planner):

GWA has submitted its position and comments that there is public sewer along Route No. 3, the Applicant must work with GWA in addressing any requirements for the proposed development. GWA engineers advised DLM planning staff there will be capital improvement projects to commence, such as upgrades to the water distribution lines and also upgrade the northern public sewer treatment plant in Finegayan (Harmon Annex). These mandated projects would improve water pressure and distribution and sewer treatment support facilities that also serve the Harmon, Dededo customers and new developments near the new hospital and along Route No. 3. There may be a requirement for sewer connections/extension that may be within 150-200 feet of the nearby residences to hook up, subject to GWA assessments and consideration for a public sewer service manhole and fire hydrant extensions.

Continuation of Public Hearing Minutes, Ref GLUC 2017-12

Page 2

Response from Mr. Harry Gutierrez (representative):

He further informed the Attendees that all requirements for water supply will be assessed and coordinated with GWA Engineering and that detailed engineering plans will be provided for review during permitting process, the owners will place all civil works on each site; location of ponding basin and water catchments will be coordinated with GEPA so that water runoff can be channeled to it. New sewer and water lines will be required and will be connected to Route No. 3, he further stated that he will assist and recommend a sewer stub-out connection be located at the rear of the lots so that its accessible to the neighborhood for connection near the utility easement.

Mayor Melissa Savaress:

Informed those in attendance that the project is co-located near residences and that the commercial activities be fenced and landscape the development site. She further started she will be having a meeting with her MPC on the rezoning application.

There were no major concerns or objections on the application. The hearing was adjourned at 6:55 p.m.

ATTACHMENT B



DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÅHAN (Government of Guam)



MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

Street Address: 590 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

> Mailing Address: P.O. Box 2950 Hagátña, GU 96932

Website: http://dlm.guam.gov

E-mail Address: dlmdir@land.guam.gov

Telephone: 671-649-LAND (5263)

Facsimile: 671-649-5383



EDDIE BAZA CALVO Governor

RAY TENORIO Lieutenant Governor

February 9, 2018

Memorandum

To:

Chairman, Guam Land Use Commission

From:

Guam Chief Planner

Subject:

Staff Report - Application No. 2017-45, Zone Variance for Lot No.

7007-3-R3 NEW, Municipality of Yigo.

1. PURPOSE:

- a. Application Summary: The applicant, Docomo Pacific, Inc. Guam is requesting for a Zone Variance approval for use and height to construct, operate and maintain a 100 feet telecommunication monopole tower on Lot 7007-3-R3 NEW, Municipality of Yigo.
- **b.** Legal Authority: Title 21, GCA (Real Property), Chapter 61 (Zoning Law) Sections 61616 to 61624 (Variances).

2. FACTS:

- a. Location: The subject site is located along Marine Corps Drive, within the Yigo, Santa Lourdes Catholic Church complex, directly behind the left corner of the social hall building.
- b. Lot Area: 7,631 Square Meters or 82,109 Square Feet.
- c. Present Zoning: "C" (Commercial) Zone.
- d. Field Description: Presently vacant with maintained grass ground cover
- e. Masterplan: Commercial Neighborhood

Re: Staff Report - Application 2017-45, Zone Variance

Lot 7007-3-R3 NEW - Municipality of Yigo

Date: February 9, 2018

Page 2 of 5

f. Community Design Plan: Public Institutions

g. Previous Commission Action: None

3. APPLICATION CHRONOLOGICAL FACTS:

a. Date Application Accepted: September 5, 2017

b. Date Heard By ARC: September 21, 2017

c. Public Hearing Results: December 19, 2017

(See Attachment "A")

4. DISCUSSION and STAFF ANALYSIS:

As proposed, the zone variance request for use and height to construct, operate and maintain a 100 feet telecommunication monopole tower on the subject site is intended to enhance the wireless coverage and improve services for the residents of Yigo.

Pursuant to Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), 21 GCA, variances may be granted by the Commission, provided the applicant can justify practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law, that there are exceptional circumstances or conditions applicable to the property or to the intended use that do not apply generally to other properties in the same zone, that the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood, that the granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan and that the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach area upon which the building is to be constructed, and that such building will not interfere with or adversely affect the surrounding property owner's or the public right to untrammeled use of the beach and it's natural beauty.

In response to:

A. That the strict application of the provisions of Section 61617, 21 GCA would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law.

Re: Staff R

Staff Report - Application 2017-45, Zone Variance

Lot 7007-3-R3NEW - Municipality of Yigo

Date: February 9, 2018

Page 3 of 5

The applicant provides that;

DOCOMO Pacific, Inc. seeks to improve its telecom infrastructures to provide quality services across the island of Guam, most especially in underserved areas with less robust signal coverage. The proposed tower location is critical to ensure the widest and best coverage. Guam enacted the Executive Order 2016-01/2001-36 to allow Guam Telecommunications companies to develop competitive, safe & efficient mobile communications services. This Variance request is consistent with the general purpose and intent of the law, and further, if not granted, will impose significant delays and logistical hardship, not least of which will be the necessity of selecting an inferior alternative site.

In response to;

B. That there are exceptional circumstances or conditions applicable to the property involved or to the intended use thereof that do not apply generally to other property in the same zone.

The applicant provides that;

The Company performed extensive radio frequency (RF) simulation & testing conducted at several locations, the results of which indicated that the site in question is ideal for improving coverage in the area, and also that alternative sites in the area were inferior from a coverage and/or logistical standpoint.

In response to;

C. That the granting of Variances will not be materially detrimental to the public welfare or injurious to the property improvements in the neighborhood in which the property is located.

The applicant provides that;

All equipment installed and maintained by the Company is licensed and regulated by the Federal Communications Commission (FCC), which regulations include operating frequencies, range, and power levels consistent with public safety and industry best practices. Further, the Company maintains a Comprehensive General Liability Insurance policy, which requires a minimum of \$1,000,000 liability policy for each site constructed. All sites are registered and recorded with the FCC.

Staff Report - Application 2017-45, Zone Variance

Lot 7007-3-R3NEW - Municipality of Yigo

Date: February 9, 2018

Page 4 of 5

In response to;

D. The granting of such Variances will be contrary to the objectives of any part of the Guam Master Plan:

The applicant provides that;

This Telecommunication site is being constructed to fulfill both the current and future demands of the Community for state-of-the-art coverage island-wide, a goal that is consistent with Executive Order 2016-01 / 2001-36 enacted to benefit the people of Guam.

In response to;

E. That, as to Variance(s) from the restrictions of Section 61617, 21 GCA, the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach are upon which the building is to be constructed and that such building shall not interfere with adversely affect the surrounding property owners or the public right to an untrammeled use of the beach and its natural beauty.

The applicant provides that;

Yes.

In our assessment of the response provided by the applicant in reference to the criterion cited in Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), 21 GCA, we find that the applicant has provide adequate justification in reference to their request that there are practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law, that there are exceptional circumstances or conditions applicable to the property or to the intended use that do not apply generally to other properties in the same zone, that the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area, that the granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan, that the proposed structure will not adversely affect the surrounding properties or public right to an untrammeled use of the beach and its natural beauty.

In addition, the result of the public hearing shows support from those in attendance and the submitted ARC position statements are with no objection and therefore conclude that their request is in proper form and context to be considered favorably by the Guam Land Use Commission.

Staff Report - Application 2017-45, Zone Variance

Lot 7007-3-R3NEW - Municipality of Yigo

Date: February 9, 2018

Page 5 of 5

- 5. **RECOMMENDATION:** Recommend Approval with conditions as follows:
 - A. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement; and
 - B. That the Applicant shall also ensure compliance to the 1-year time restriction that states a "grading or building permit must be obtained from date of recordation of the Notice of Action; otherwise the approval as granted by the Commission be "NULL and VOID" per Executive Order 96-26, Section 5".

Marvin 🕽. Agŭilar

CASE PLANNER: F.P.TAITANO

ARC Memo to GLUC Members

Minutes of Public Hearing

Application No. 2017-45, Zone Variance for Use and Height Lot 7007-3-R3NEW, Municipality of Yigo

On December 19, 2017 - 6:10 P.M. a public hearing was conducted at the Yigo Senior Center, present was the applicant's representatives, Ms. Diana Guzman, Mr. Kyung Kim and Mr. Jun Baysa, the case planner and 5 public attendees.

Case Planner called the meeting to order, introduced himself, the application and explained the purpose of the public hearing. He then introduced Ms. Guzman representing the applicant, Docomo Pacific Inc. who would present and explain the purpose of the application.

Ms. Guzman introduced herself and her co-representatives and presented the application. She explained why the applicant decided to erect the proposed 100 feet tower on the subject location, how the site was chosen and that a chain link fence will be installed along the boundaries of the site.

Ms. Guzman then opened for comments and/or questions:

Comments/Questions:

Mr. Robert Lizama asked, does Docomo have an alternative to the monopole?

Ms. Guzman responded, yes, we do have other types and the monopole is the type to provide the best service on this site.

Mr. Lizama asked, is there an alternative site, considered to locate the monopole?

Ms. Guzman responded, yes, to include the LPG store across Marine Drive.

Mr. Lizama then commented, that based on location, the property owners near the pole are not benefiting, my concern is that the pole is not really going to benefit me but, I do understand the two components and that is capacity & coverage and being close to the pole, service will improve.

Mr. Lizama asked, will there be interference with the other carriers?

Ms. Guzman responded, no

Mr. Lizama asked, If the pole is up then, will I have a problem with my service? since presently, I do experience interference as a GTA customer.

Ms. Guzman responded, no, you should not have any interference problem from our pole.

Mr. Lizama asked, if there is another pole nearby?

Ms. Guzman responded, yes, I-Connect has a pole located north, just past the last store before AAFB.

Mr. Lizama asked, how long have Docomo being putting up this type of poles?

Ms. Guzman responded, 12 years.

Mr. Lizama asked, have there been any incident since then?

Ms. Guzman responded, no

AN APPLICATION HAS BEEN FILED WITH THE GUAM LAND USE COMMISSION (GLUC) FOR A ZONE VARIA PUBLIC NOTICE

APPLICATION DESCRIPTION: 100ft. Monopole Tower

OWNER: Docomo Pacific GUAM

DEVELOPER: Docomo Pacific GUAM

OF BLOCK, TRACT, MUNICIPALITY: Lot # 7007-3-R3 NEW Yigo Church, Yigo Guam

PROPOSED ZOME VARIANCE 100# Monopole Tower

PUBLIC HEARING December 19, 2017 6:00 p.m.

GLUC MEETING: February 22, 2018 1:30pm

Land Mengesoner Conferent

ITC Building Tamuning

Street Address: 590 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

> Mailing Address: P.O. Box 2950 Hagātña, GU 96932

Website: http://dlm.guam.gov

E-mail Address: dlmdir@land.quam.gov

Telephone: 671-649-LAND (5263)

Facsimile: 671-649-5383



DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÅHAN

(Government of Guam)



MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

EDDIE BAZA CALVO Governor RAY TENORIO Lieutenant Governor

February 9, 2018

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Positions Submitted by ARC

RE: Application No. 2017-45 (Zone Variance)

Listed below is the compilation of Positions taken by the various ARC member agencies as submitted to Planning Division, Department of Land Management. The conditions as imposed by the ARC member agencies are listed when applicable.

DEPARTMENT OF LAND MANAGEMENT (DLM):

DLM recommends approval with the following conditions;

- A. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement; and
- B. That the Applicant shall also ensure compliance to the 1-year time restriction that states a "grading or building permit must be obtained from date of recordation of the Notice of Action; otherwise the approval as granted by the Commission be "NULL and VOID" per Executive Order 96-26, Section 5".

GUAM ECONOMIC DEVELOPMENT & COMMERCE AUTHORITY (GEDCA): GEDCA has no objections.

DEPARTMENT OF PUBLIC WORKS (DPW):

The Department of Public Works (DPW) recommends approval, subject to the comments reviewed by the Application Review Committee (ARC) with the following conditions:

Continuation of Memorandum Ref: ARC Summary of Position Statements - Application No. 2017-45 February 9, 2018 Page 2 of 4

- A. to provide detail drawings (structural, electrical and civil) as a supplemental to the application; and
- B. the installation of the Monopole Tower must be well engineered that can withstand all wind, vibration forces at 210 MPH;

DPW recommends approval, subject to comments as reviewed by the Application Review Committee (ARC) with conditions prior to building permit application, a complete set of design drawings must be submitted with all the engineering disciplines that are needed in the project and must comply with all the rules and regulations. Design drawings must also conform to the latest building code requirements prior to issuance of building permit.

GUAM WATERWORKS AUTHORITY (GWA):

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone variance for height for a permitted 100-foot telecommunication monopole tower on Lot 7007-3-R3 NEW in a "C" (Commercial) Zone, in the Municipality of Yigo.

This memorandum shall serve as GWA's position statement to the above zone variance request related to availability of water and sewer infrastructures to serve the above subject lot. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without onsite or off-site improvements. Any extension of the water and sewer systems and/or capacity upgrades required to serve property shall be subject to the rules and regulations of GWA. Any required extension to the existing facilities to serve the subject properties shall be at expense of the applicant.

Given the information provided in the application and field observations, the following comment is GWA's position in favor of the approval of this zone variance application:

The applicant's request for a zone variance for height will not require an increase in water and wastewater services and there are no GWA utilities that will be impacted following the approval of this zone variance request. Therefore, GWA has no objection to this application request.

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response (Oct. 9, 2017).

GUAM POWER AUTHORITY (GPA):

Guam Power Authority has reviewed the application described above and submits the following position statement:

Continuation of Memorandum Ref: ARC Summary of Position Statements - Application No. 2017-45 February 9, 2018 Page 3 of 4

A. Comments and Recommendations Concerning GPA requirements:

- Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and CPA's Service Rules and Regulations:
 - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
 - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
 - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
 - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
 - Provide scheduling and magnitude of project power demand requirements for new loads.
 - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
- Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
- 3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
- 4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.

B. General Comments:

GPA has no objection to the request subject to the conditions cited above.

BUREAU OF STATISTICS AND PLANS (BSP):

The Bureau of Statistics and Plans (Bureau) has completed its review of the application and provides the following comments and concerns.

1. Land Use. The site is located within the "C" (Commercial) Zone in the Northern portion of the island and will situated behind the Yigo Social Hall.

Continuation of Memorandum Ref: ARC Summary of Position Statements - Application No. 2017-45 February 9, 2018 Page 4 of 4

2. Safety Precaution. According to Docomo Pacific Guam representatives, the 100 ft. monopole tower will be nearby developed structures so it has the potential for damages due to natural hazards and damaging winds over 210 miles per hour. The Bureau does however recommend the applicant implement safety measures to ensure the protection of the community in the event of tropical storms, typhoons, seismic activity and other catastrophic events.

The Bureau Recommends Approval to the proposed 100 ft. Docomo Tower. Although the proposal is considered an accessory structure all regulatory compliance requirements and/or conditions still must be considered and adhered to in its entirety including any other applicable local and federal statutes.

As government officials, it is our responsibility to ensure that the construction and operations of this proposal endeavor are in a manner designed to protect the public health, safety and to promote the public welfare and convenience. We also encourage the applicant to protect Guam's natural resources and to ensure they are used in a sustainable manner.

DEPARTMENT OF PARKS AND RECREATION (DPR):

DPR has reviewed the subject application by Docomo Pacific Inc. for zone variance for use and height of subject Lot and have no objection. Therefore, DPR have no objection to the approval of the zone variance application.

GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA):

Has not submitted Position Statement as of Staff Report date

DEPARTMENT OF AGRICULTURE (DoAg):

Has not submitted Position Statement as of Staff Report date

DEPARTMENT OF CHAMORRO AFFAIRS (DoCA):

Has not submitted Position Statement as of Staff Report date.

GUAM FIRE DEPARTMENT (GFD):

Has not submitted Position Statement as of Staff Report date.

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES (DPH&SS):

Has not submitted Position Statement as of Staff Report date.

GUAM PUBLIC SCHOOL SYSTEM (GPSS):

Has not submitted Position Statement as of Staff Report date.

Attachments: ARC Position statements CC: Executive Secretary, GLUC

Marvin Q



GUAM POWER AUTHORITY

ATURIDÅT ILEKTRESEDÅT GUAHAN P.O.BOX 2977 • AGANA. GUAM U.S.A. 96932-2977

September 26, 2017

MEMORANDUM

To:

Chairman, Guam Land Use Commission

Executive Secretary, Guam Land Use Commission

From:

General Manager

Subject:

Lot 7007-3-R3 NEW, Municipality of Yigo, (Docomo Pacific Inc.); Zone Variance

Application for a Telecommunication 100ft. Monopole Tower. Application No. 2017-45

Guam Power Authority has reviewed the application described above and submits the following position statement:

A. Comments and Recommendations Concerning GPA requirements:

1. Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:

 Coordinate overhead/underground power requirements with GPA Engineering for new structures.

 Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.

 Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.

 Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.

Provide scheduling and magnitude of project power demand requirements for new loads.

- All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant
 including but not limited to labor and materials.
- 2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
- 3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
- 4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.

B. General Comments

GPA has no objection to the request subject to the conditions cited above.

JOHN M. BENAVENTE, P.E.

ASG/arp

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: Guam Power Authority Applicant: Docomo Pacific Inc.. Location: Lot 7007-3-R3 NEW, Yigo Type of Application: Zone Variance GLUC/GSPC Application No. 2017-45 **Brief Project Description:** A 100ft. Telecommunication Monopole Tower. For the purposes of this Certification, GOVERNMENT SERVICES, FACILITIES, and INFRASTRUCTURE include, but are not limited to: power lines poles and facilities; water lines, pumps and facilities; sewer and liquid waste disposal; storm water disposal; solid waste disposal; telephone lines and facilities; schools; health facilities; police and fire fighting service and facilities; roads; traffic and street lights: parks and recreational activities. 1. I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently AVAILABLE AND IN PLACE to support this project: No 🗌 2. If the answer to #1 above is YES, then: I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently ADEQUATE to support this project: No 🛛 Yes 🔲 3. If the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE currently in place are NOT AVAILABLE or they are AVAILABLE, BUT NOT ADEQUATE, itemize the services, facilities and infrastructure that are needed, the estimated cost thereof and whether funds are currently available and identified to develop such services, facilities and infrastructure: Services, Facilities and Cost of Upgrades Funds Date Available **Funds** Infrastructure Needed Available Identified Please see comments below I hereby certify that the foregoing is true and correct to the best of my knowledge.

Comments:

General Manager

Based on a preliminary inspection of the site, the electrical facilities <u>may</u> require upgrading to meet the demand of the proposed project. A system impact assessment maybe required to determine the effect of this facility on GPA's existing power distribution system. The applicant will be responsible for the cost of any required system upgrade.

Eddie Baza Calvo Governor of Guam



Carl V. Dominguez
Director
Manuel Q. Cruz

Deputy Director

Ray Tenorio
Lieutenant Governor

Government of Guam P.O. Box 2950 Hagåtña, Guam 96932 Tel: (671) 472-4201/3 Fax: (671) 477-1812

NOV 2 9 2017

MEMORANDUM

To:

Chairman, Guam Land Use Commission

Via:

Executive Secretary, Department of Land Management

From:

Director, Bureau of Statistics and Plans

Subject:

Position Statement on Application No. 2017-45

Applicant: Docomo Pacific Inc. Guam Location: Yigo, Lot 7007-3-R3 NEW

Purpose: 100ft. Telecommunications Monopole Tower

Hafa Adai! The applicant, Docomo Pacific Guam requests a zone variance on Lot 7007-3-R3 NEW in the Municipality of Yigo. In accordance to Executive Order (EO) 2001-36, Docomo proposes to install a 100 foot telecommunications monopole tower on a portion of the property, which is approximately 8,568 square meters, 92,225 square feet, which is 2.3 acres in size. The subject property is "C" (Commercial) zoned and can be accessed just off Route 1 in Yigo immediately after the Gayinero Drive entrance.

A telecommunications antenna site agreement indicates that the property is leased to Docomo Pacific Guam by the Archdioce of Agana-Yigo Catholic Church Our Lady of Lourdes Church (Registered Owner) for a term of twenty-five (25) years. Docomo Pacific Guam seeks to improve its telecommunication infrastructure in order to provide services throughout the island including underserved areas with less signal coverage.

The Bureau of Statistics and Plans (Bureau) has completed its review of the application and provides the following comments and concerns.

- 1. Land Use. The site is located within the "C" (Commercial) Zone in the Northern portion of the island and will be situated behind the Yigo Social Hall.
- 2. Safety Precaution. According to Docomo Pacific Guam representatives, the 100ft. monopole tower will be nearby developed structures so it has the potential for damages due to natural hazards and damaging winds over 210 miles per hour. The Bureau does however recommend the applicant

BSP Position Statement ARC 2017-45 Docomo Pacific Page 2 of 2

implement safety measures to ensure the protection of the community in the event of tropical storms, typhoons, seismic activity and other catastrophic events.

The **Bureau Recommends Approval** to the proposed 100 ft. Docomo Tower. Although the proposal is considered an accessory structure all regulatory compliance requirements and/or conditions still must be considered and adhered to in its entirety including any other applicable local and federal statutes.

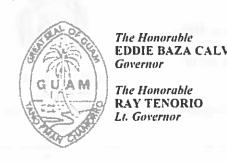
As government officials, it is our primary responsibility to ensure that the construction and operations of this proposed endeavor are in a manner designed to protect the public health, safety, and to promote the public welfare and convenience. We also encourage the applicant to protect Guam's natural resources and to ensure they are used in a sustainable manner. Si Yu'us Ma'ase'.

MANUEL Q. GRUZ

Acting

cc: GEPA DOAG DPR DPW GPA

GWA





GLENN LEON GUERRERO

Director

ARLEEN U. PIERCE

RECEIVED

MEMORANDUM

TO:

Director, Department of Land Management

FROM:

Director, Director of Public Works

SUBJECT:

Applicant: DOCOMO Pacific, Inc.

Application: 2017-45

Height Variance

Lot 7007-3-R3NEW, Yigo, Guam

Buenas yan Hafa Adai! Applicant, Docomo Pacific, Inc. intent is to construct and install a one hundred (100') feet Monopole Tower on a flat surface of 25 x 25 feet, located at the rear side area of the social hall building at Yigo, Catholic Church. The main purpose is to improve its tele communications system and provide quality services within the vicinity of the northern area. It will also help in the enhancement of 911 and Homeland Security during an emergency situation.

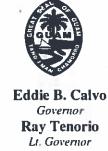
The Department of Public Works (DPW) recommends approval, subject to the comments review ed by the Application Review Committee (ARC) with the following conditions:

- A. to provide detail drawings (structural, electrical and civil) as a supplemental to the application; and
- B. the installation of the Monopole Tower must be well engineered that can withstand all wind, vibration forces at 210 MPH;

DPW recommends approval, subject to comments as reviewed by the Application Review Committee (ARC) with conditions prior to building permit application, a complete set of design drawings must be submitted with all the engineering disciplines that are needed in the project and must comply with all the rules and regulations. Design drawings must also conform to the latest building code requirements prior to issuance of building permit.

Should you have any questions, please contact Linda Ibanez, In -Charge of CIP or Maryrose M. Wilson, at Division of Capital Improvement Projects (CIP) at 646-3209 or 646-3224.

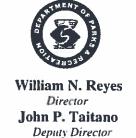
J Libanez/ MRWilson



Department of Parks and Recreation Government of Guam

490 Chalan Palasyo, Agana Heights, Guam 96910 Director's Office: (671) 475-6288 Parks Division: (671) 475-6291 Guam Historic Resources Division: (671) 475-6294/5

Facsimile: (671) 477-2822



In reply refer to: RC 2017-0887

October 17, 2017

Memorandum

To:

Executive Secretary, Guam Land Use Commission

From:

Director, Department of Parks and Recreation

Subject:

Application No. 2017-45: Application for Zone Variance for Use & Height on

Portion of Lot 7007-3-R3 NEW, Yigo, Guam

We reviewed the subject application by Docomo Pacific Inc. for zone variance for use and height of subject Lot and have no objection. Therefore, we have no objection to the approval of the zone variance application.

Should you have any questions, please do not hesitate to call us.

Sincerely,

MA



GUAM WATERWORKS AUTHORITY

Gloria B. Nelson Public Service Building 688 Route 15, Mangilao, Guam 96913

MEMORANDUM

October 9, 2017

MB10/17

OCT 17 2017

TO:

Director, Department of Land Management

FROM:

Miguel C. Bordallo, P.E., General Manager,

SUBJECT:

Position Statement on Zone Variance Application No. 2017-

45 on of Lot 7007-3-R3-NEW in a "C" (Commercial) Zone, in

the Municipality of Yigo.

APPLICANT(S):

Docomo Pacific Guam

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone variance for height for a permitted 100-foot telecommunication monopole tower on Lot 7007-3-R3-NEW in a "C" (Commercial) Zone, in the Municipality of Yigo.

This memorandum shall serve as GWA's position statement to the above zone variance request related to availability of water and sewer infrastructures to serve the above subject lot. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without on-site or off-site improvements. Any extension of the water and sewer systems and/or capacity upgrades required to serve property shall be subject to the rules and regulations of GWA. Any required extension to the existing facilities to serve the subject properties shall be at expense of the applicant.

Given the information provided in the application and field observations, the following comment is GWA's position in favor of the approval of this zone variance application:

ATTACHMENT C



DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÅHAN (Government of Guam)



MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

Street Address: 590 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

Mailing Address: P.O. Box 2950 Hagåtña, GU 96932

Website: http://dlm.guam.gov

E-mail Address: dimdir@land.guam.gov

Telephone: 671-649-LAND (5263)

Facsimile: 671-649-5383



EDDIE BAZA CALVO Governor

RAY TENORIO Lieutenant Governor

February 13, 2018

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2014-07D, Request for Second

Supplementary Final Public Report on Lot 5360-R19NEW-4 in the

Municipality of Mangilao.

1. PURPOSE:

- A. Application Summary: The applicant, Allegro Properties Corporation, represented by Attorney Melinda Swavely, Esq. of Dooley Roberts & Fowler LLP, request for issuance of a Second Supplementary Final Public Report in order to continue to market and sell the Avida Townhomes project, located in an "R-2" (Multi-Family Dwelling) zone on Lot 5360-R19NEW-4, in the Municipality of Mangilao, under Application No. 2014-07D.
- **B.** Legal Authority: Title 21, GCA (Real Property), Chapter 45 (Horizontal Property Act) Sections 45154 Automatic Expiration of Public Reports.

2. FACTS:

- A. Pursuant to §45154 of Chapter 45, Title 21, GCA, all public reports expire thirteen (13) months after the date of issuance of said public report. The Commission approved and issued the Final Public Report for "Avida Townhomes" on December 10, 2015 with an expiration date of January 10, 2017 (Reference Instrument No. 889055).
- B. A First Supplementary Final Public Report was issued by the Commission on January 12, 2017 and expired on February 12, 2018 (Reference Instrument No. 902799).
- C. Current Status. The developer is currently marketing the project as a whole to potential on-island and off-island investors. However, if the Developer is unable to sell the entire project in the next few years, it has plans to market the units individually.

D. Changes to Original Project. There are no material changes to the project since issuance of the Final Public Report on January 10, 2015 and the First Supplementary Final Public Report on January 12, 2017.

3. STAFF RECOMMENDATION:

Recommend issuance of a Second Supplementary Final Public Report in order for the developer to continue to sell the project containing 5 condominium units; and, pursuant to §45154 of Chapter 45, Title 21 the issuance of this Second Supplementary Final Public Report is for a period of thirteen months to end on March 22, 2019.

Marvin Q. Advillar Guam Chief Planner

Attachment

Case Planner: Celine Cruz

ROBERTS FOWLER & VISOSKY LLP ATTORNEYS AT LAW

TIM ROBERTS KEVIN J. FOWLER JON A. VISOSKY SETH FORMAN 865 SOUTH MARINE CORPS DRIVE SUITE 201 TAMUNING, GUAM 96913 TELEPHONE: (671) 646-1222

FACSIMILE: (671) 646-1223 www.guamlawoffice.com Of Counsel: MELINDA S. SWAVELY DAVID W. DOOLEY COLIN P.A. JONES

Writer's Direct Email: swavely@guamlawoffice.com

2ND SUPPLEMENTARY FINAL REPORT

Avida Townhomes, HPR 168

2014-07D

26-Jan-18

Celine C.

Allegro Properties Corporation

Application No.:

Accepted Date:

Case Planner:

January 26, 2018

Via Hand Delivery
Mr. John Z. Arroyo
Chairman, Guam Land Use Commission
c/o Mr. Marvin Q. Aguilar, Guam Chief Planner
DEPARTMENT OF LAND MANAGEMENT
Government of Guam

SUBJECT:

Tamuning, Guam 96913

AVIDA TOWNHOMES

REGISTRATION NO.:

168

TYPE:

REQUEST FOR APPROVAL OF THE SECOND

SUPPLEMENTARY FINAL REPORT

Dear Chairman Arroyo and Commissioners:

Our firm represents Allegro Properties Corporation ("Developer") of Avida Townhomes ("Project") on Lot No. 5360-R19NEW-4, Mangilao, Guam.

The Developer is requesting the issuance of a Second Supplementary Final Report. The Developer is currently marketing the Project, as a whole, to potential on-island and off-island investors. However, if the Developer is unable to sell the entire Project in the next few years, it plans to market the Units individually.

We have attached hereto information in support of the issuance of a Second Supplementary Final Report for the Project. Your favorable consideration of our request for issuance of a Second Supplementary Final Report is respectfully requested.

Sincerely,

Melinda S. Swavelv

INFORMATION IN SUPPORT OF THE ISSUANCE OF A SECOND SUPPLEMENTARY FINAL REPORT FOR AVIDA TOWNHOMES

1. Brief background information of the project identifying the project name and any amenities provided, its location by lot, block, tract number, and municipality.

a. Name of Project:

Avida Townhomes

b. Location:

Lot No. 5360-R19NEW-4, Mangilao, Guam

c. Zoning:

R-2

d. <u>Developer</u>:

Allegro Properties Corporation 162 W. Route 8, Suite 100 Barrigada, Guam 96913

(671) 734-3011

e. <u>No. of Buildings and Floors</u>: There is one (1) reinforced concrete apartment building with two (2) floors

- f. No. of Units: Five (5) Units.
- g. <u>Unit Type</u>: All of the five (5) apartment units have three (3) bedrooms, two and one-half (2-1/2) bathrooms, kitchen, living and dining room, storage area, balcony, and two (2) parking stalls in the carport.
- h. <u>Parking Stalls</u>: Each apartment unit includes two (2) parking stalls in the carport. There are also five (5) parking stalls, which are Common Elements of the Project and are for use by the owners, tenants, guests, and invitees. Each parking stall contains a minimum of one hundred eighty (180) square feet, and has immediate access within the Project leading to a public street.
- i. Other Amenities or Features: Grounds refuse facilities, transformer, concrete area, ingress and egress along the front of the Project, three (3) foot concrete wall with chain link fence around the right and left side yards and rear of the Project, three (3) foot concrete wall, and four (4) concrete columns and decorative fencing along the front of the Project.

2. Number and identification of Units sold.

None.

3. Number and identification of Units not sold.

The following Units are not sold: Unit A, Unit B, Unit C, Unit D and Unit E.

4. Type of extension requested.

[] preliminary [X] final

5. Number of extension (i.e., third, fourth, etc.).

Second.

6. Real Estate Broker. Has the Developer retained the services of a real estate broker/company to marketing the remaining units? If so, please provide the complete name, mailing address and phone number of the broker/company. Does the Developer intend to market the remaining units himself or within his company?

The Developer has retained the services of Elizabeth C. Duenas, a broker for ReMax, to market the units. The mailing address, telephone number, facsimile number, mobile number and email address for Elizabeth C. Duenas are as follows:

Mailing Address:

238 East Marine Corps Dr., Suite 202, Hagatna, Guam 96910

Telephone No.:

(671) 479-8843

Facsimile No.:

(671) 479-8913

Cellular No.:

(671) 687-0911

Email Address:

lduenas@remax.guam.com

7. Marketing Plan. A brief explanation on how the Developer or its broker plans to market the remaining condominium units.

The Developer currently desires to sell the Project as a whole. If the Developer is unable to do so in the next few years, it plans to market the Units individually.

8. Changes to original Project. Should there be any material changes to the Project at the time of the application for a supplementary report to extend an existing Report, the Developer shall be required to identify those exact changes in his Report, and provide an explanation as to what remedies or action has been taken to correct those changes. Supporting documents are recommended to justify material changes.

There are no material changes to the Project.

GUAM LAND USE COMMISSION DEPARTMENT OF LAND MANAGEMENT GOVERNMENT OF GUAM TAMUNING, GUAM 96913

FIRST SUPPLEMENTARY FINAL HORIZONTAL PROPERTY REGIME PUBLIC REPORT ON

AVIDA TOWNHOMES

Lot No. 5360-R19NEW-4, MANGILAO, GUAM

REGISTRATION NO. 168

IMPORTANT - Read This Report Before Buying

This Report is Not an Approval or Disapproval of This Condominium Project

It reflects information obtained by the Guam Land Use Commission ("Commission") in its investigation of the Project. This report, based on a principle of disclosure, is issued by the Commission for the purpose of preventing fraud, misrepresentation or deceit.

The Developer shall not enter into a binding contract or agreement for the sale of any unit in the Project, until:

- (1) A copy of the Final Report and all Supplementary Public Reports have been given to the prospective purchaser,
- (2) The latter has been given an opportunity to read the same, and,
- (3) His receipt taken therefor.

Island of Geam, Government of Guam Department of Land Management Office of the Recorder

Con the Year Month Day Time 139
Recording Fee Receipt No. 1799
Deputy Recorder JOELD. ANTENORCRUZ

Issued: January 12, 2017 Expires: February 12, 2018

SPECIAL ATTENTION

A comprehensive reading of this report by prospective purchasers is urged in order that personal requirements and expectations to be derived from the property can be ascertained. The attention of the purchaser or prospective purchaser is particularly directed to the following:

THIS REPORT REFLECTS INFORMATION DISCLOSED IN THE REQUIRED NOTICE OF INTENTION, DECLARATION OF HORIZONTAL PROPERTY REGIME, AND BYLAWS OF THE ASSOCIATION OF OWNERS, SUBMITTED BY THE DEVELOPER IN THE NOTICE OF INTENTION, QUESTIONNAIRE, DECLARATION, AND BYLAWS DATED MAY 8, 2015, HEARD BEFORE THE COMMISSION ON DECEMBER 10, 2015 AND FILED IN THE OFFICE OF THE RECORDER, GOVERNMENT OF GUAM ON JANUARY 22, 2016 UNDER INSTRUMENT NUMBER 887981; THE CONDOMINIUM MAP FOR THE PROJECT FILED IN THE OFFICE OF THE RECORDER, GOVERNMENT OF GUAM ON JANUARY 15, 2016 UNDER INSTRUMENT NO. 887821, AND THE FINAL PUBLIC REPORT FILED IN THE OFFICE OF THE RECORDER, GOVERNMENT OF GUAM ON FEBRUARY 22, 2016, UNDER INSTRUMENT NO. 889055; THE REQUEST FOR ISSUANCE OF A FIRST SUPPLEMENTARY FINAL PUBLIC REPORT DATED DECEMBER 19, 2016 AND HEARD BEFORE THE COMMISSION ON JANUARY 12, 2017, WITH THE NOTICE OF ACTION ISSUED BY THE COMMISSION ON JANUARY 12, 2017 AND FILED IN THE OFFICE OF THE RECORDER, GOVERNMENT OF GUAM ON JANUARY 13, 2017 UNDER INSTRUMENT NUMBER 902004. THE DEVELOPER, BY NOTIFYING THE COMMISSION OF ITS INTENTION TO CONTINUE TO SELL THE CONDOMINIUM UNITS OF THIS PROJECT IS COMPLYING WITH THE REQUIREMENTS OF THE HORIZONTAL PROPERTY ACT, TITLE 21, GUAM CODE ANNOTATED, CHAPTER 45, AS AMENDED (THE "ACT").

- 1. Description of Project. The Project consists of Lot No. 5360-R19NEW-4, Mangilao, Guam ("Property") and improvements thereon consisting of a two (2) storey apartment building containing five (5) apartment units, each with three (3) bedrooms and two and one-half (2½) bathrooms ("Apartment Building"). The Common Elements of the Project include five (5) parking stalls, grounds, refuse facilities, transformer, ingress and egress along the front of the Project; three (3) foot concrete wall with chain link fence around the right and left side yards and rear of the Project, three (3) foot concrete wall and four (4) concrete columns and decorative fencing along the front of the Project sides and back of the Project, and other Common Elements of the Project.
- All Documents Submitted. The Developer of the Project has submitted to the Commission for examination all documents deemed

necessary for the registration of a condominium project and issuance of this Final Public Report.

- 3. Compliance and Recording. The Declaration of Horizontal Property Regime (the "Declaration"), Bylaws of the Association of Owners (the "Bylaws"), and a copy of the floor plans have been submitted to the Commission. The Commission finds these necessary documents comply with the Act. The Declaration, executed May 8, 2015, with the Bylaws attached, was recorded on January 22, 2016, at the Department of Land Management, Government of Guam under Instrument No. 887981 and the Condominium Map No. 168 for the Project was filed in the Office of the Recorder, Government of Guam on January 15, 2016, under Instrument No. 887821.
- 4. Ownership of Project. The Developer advises the Commission that it now owns the Project, including the Property in fee simple. On completion of conveyance of all of the apartment units in the Project, the Developer will retain no residual interest in the Project.
- 5. Horizontal Property Act. The prospective purchaser is advised to acquaint himself with the provisions of the Act and any Condominium Rules and Regulations promulgated under the Act which relate to Horizontal Property Regimes.
- 6. Term of Report. This First Supplementary Final Public Report automatically expires thirteen (13) months after date of issuance, or on February 12, 2018, unless a Second Supplementary Public Report is published, or the Commission, upon review of the registration, issues an order extending the effective period of this Report.
- 7. Printing and Distributing Report. The Developer is responsible for placing this First Supplementary Final Public Report (pink paper stock) in the hands of all prospective purchasers and for securing a signed copy of the receipt for the Final Public Report and First Supplementary Final Report from each prospective purchaser.

I. Name of Project: Avida Townhomes

II. Location: Lot No. 5360-R19NEW-4, Mangilao, Guam

III. Zoning: R-2

IV. Developer:

Allegro Properties Corporation

162 W. Route 8, Suite 100 Barrigada, Guam 96913

(671) 734-3011

V. Attorney representing

Developer:

Melinda S. Swavely, Esq.

Dooley Roberts Fowler & Visosky LLP

865 South Marine Corps Drive, Suite 201, Orlean Pacific Plaza

Tamuning, Guam 96913

(671) 646-1222

VI. Description:

- §1. The Project. The Declaration reflects that the Project is comprised of the Property and the improvements consisting of the Apartment Building containing five (5) apartment units, and the Common Elements consisting of five (5) parking stalls, grounds, refuse facilities, transformer, ingress and egress along the front of the Project; three (3) foot concrete wall with chain link fence around the right and left side yards and rear of the Project, three (3) foot concrete wall and four concrete columns and decorative fencing along the front of the Project sides and back of the Project, and other Common Elements of the Project in accordance with the as-built drawings for the Project prepared by Francisco Z. Diamzon and set out in Condominium Map No. 168, recorded with the Department of Land Management, Government of Guam, on January 15, 2016 under Instrument No. 887821.
- §2. The Apartments. The five (5) apartment units each have three (3) bedrooms, two and one-half (2-1/2) bathrooms, kitchen, living and dining room, storage area, balcony and two (2) parking stalls in carport.
- §2.1. Included Within Apartments. Each apartment unit is deemed to include the spaces bound by and contained within the perimeter walls, floors, windows, doors, and ceilings of each apartment unit inclusive of the carport and one (1) balcony area appurtenant to each apartment unit, including all the walls, beams and columns within the perimeter walls which are not load-bearing, and the interior decorated or finished surfaces of all load-bearing walls, beams and columns, floors, and ceilings within the perimeter walls. The apartment units are not deemed to include the undecorated or unfinished interior load-bearing walls, perimeter walls, floors and ceilings surrounding each apartment unit; the building foundation; and any pipes, wires, conduits, or other utility lines running to an apartment unit which are utilized for or serve other apartment units, and all other parts of the Project which are Common Elements.
- §2.2. Apartment Number, Location, and Square Footage of the Apartment Units. The unit number, location, parking stalls, and square footage of the apartment units are as follows:

Apartment Building from North to South

Apt. No.	Parking Stalls In Carport	No. of Square footage (including floor areas of carport and two balconies)
Unit A	2	1,606.89 square feet, inclusive of two (2) car carport and balcony area on the second floor.
Unit B	2	1,606.89 square feet, inclusive of two (2) car carport and balcony area on the second floor.
Unit C	2	1,606.89 square feet, inclusive of two (2) car carport and balcony area on the second floor.
Unit D	2	1,606.89 square feet, inclusive of two (2) car carport and balcony area on the second floor.
Unit E	2	1,606.89 square feet, inclusive of two (2) car carport and balcony area on the second floor.

The square footage of each of apartment units is 1,606.89 square feet as follows: 1) the square footage of the apartment units excluding the carport and balcony area is 1,199.82 square feet; 2) the square footage of the carport area is 338.83 square feet; and 3) the square footage of the balcony is 68.69 square feet.

§3. Common Elements. The Declaration reflects that the Common Elements consist of:

§3.1. Land. The Property in fee simple subject to the following: 1) Grant of Right-of-Way for the Erection and Maintenance of Power Lines, Poles, Wires, Cables and Underground Conduits dated April 8, 2003 and recorded on May 22, 2003 under Instrument No. 675297, in the Department of Land Management, Government of Guam, executed by Grand Rock Corporation, Ltd., grantor to Guam Power Authority, grantee. RE: A 10' x 10' strip of land extending partially across Lot No. 5360-R19NEW-4, Mangilao; 2) Mortgage dated September 11, 2008 and recorded on September 11, 2008 under Instrument No. 779076, in the Department of Land Management, Government of Guam, executed by Allegro Properties Corporation, mortgagor to Citizens Security Bank (Guam), Inc., mortgagee, which states it secures a debt in the principal amount of \$660,000.00, plus interest; 3) Assignment of Rents dated September 9, 2008 and recorded on September 11, 2008 under Instrument No. 779077, in the Department of Land Management, Government of Guam, executed by Allegro Properties Corporation, assignor to Citizens Security Bank (Guam), Inc., assignee; 4) Notice of Action dated August 15, 2014 and

recorded on September 9, 2014 under Instrument No. 869322, in the Department of Land Management, Government of Guam, in favor of Allegro Properties Corporation [Note: Request for a zone variance approval of an existing 7'8" right side yard setback and 9'10" rear yard setback of an existing 2-storey, 5-unit apartment complex. (Approved with conditions.]; 5) Guam Law Use Commission Regular Meeting Minutes dated August 14, 2014 and recorded on September 19, 2014 under Instrument No. 869665, in the Department of Land Management, Government of Guam, in favor of Allegro Properties Corporation, request for side and rear setbacks of the building in an "R-2" (Multi-Family Dwelling) zone; 6) real property taxes not yet due and owing; and 7) all other liens, easements and encroachments of record.

- §3.2. Building elements. The foundation, roof, and stairways of the building; and all load-bearing floors, walls, columns, and beams of the building, but excluding the interior decorated or finished surface of all such load-bearing floors, walls, columns and beams, and the ceilings within the perimeter walls of an individual apartment unit.
- §3.3. Grounds and facilities. Grounds, refuse facilities, transformer, concrete area, ingress and egress along the front of the Project; three (3) foot concrete wall with chain link fence around the right and left side yards and rear of the Project, three (3) foot concrete wall and four concrete columns and decorative fencing along the front of the Project, and other Common Elements of the Project.
- §3.4. Parking. The Common Element parking facilities consisting of five (5) parking stalls to be used by tenants, guests, and invitees. Each parking stall shall contain a minimum of one hundred eighty (180) square feet, and shall have immediate access within the Project leading to a public street.
- §3.5. Fixtures. All pipes, cables, conduits, ducts, flues, chutes, wiring, equipment, and other central and appurtenant installations over, under, and in the Project which serve more than one (1) apartment for services such as and including conveyance, power, light, water, sewer, telephone and television signal transmission, if any;
- §3.6. Other personal property. All articles of personal property of the Project necessary or convenient to its existence, maintenance, safety or normally in common use; and
- §3.7. Other parts of property. All other parts of the Project defined as Common Elements under the Horizontal Property Act.
- §4. Percentage of Common Element Interest to be conveyed Purchaser. The apartment units shall have appurtenant thereto an undivided interest in the Common Elements, as follows:

Unit No.	Square Footage	Undivided Common Element Interest
Unit A	1,606.89	20 %
Unit B	1,606.89	20 %

Unit C	1,606.89	20%
Unit D	1,606.89	20%
Unit E	1,606.89	20%

- §5. Voting and Percentage in Common Elements. The interest in the Common Elements, proportionate share in the liability for Common Element expenses, proportionate interest in the profits, if any, in the Project, and representation for voting purposes shall be allocated on the basis of the percentage set out in §4, or as modified by the Declaration of Final Horizontal Property Regime. The percentage of the Common Element Interest of each apartment owner as expressed in the Declaration of Final Horizontal Property Regime shall have a permanent character and shall not be altered without the consent of all apartment owners affected, expressed in an amended Declaration duly recorded. The percentage of the Common Element Interest shall not be separated from the apartment unit to which it is appurtenant and shall be deemed to be conveyed or encumbered with the apartment unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.
- §6. Purpose of Building and Restrictions as to Use. The Declaration states that the apartments are intended exclusively for residential purposes except that a portion of the apartment unit may be used as a home office by the owner or tenant, provided the apartment unit owner has first obtained the permission of the Board as to the use, patronization, and conditions of use of such home office. Such permission by the Board shall be required to be renewed on an annual basis and can be revoked by the Board at any time for good cause.
- §7. Financing of Project. Financing for the Project was financed through the Developer's funds and a loan from Citizen Security Bank.
 - §8. Ownership of Land. The Developer is the owner in fee simple of the Property.
- Encumbrances Against Title. Developers own the land and building free and clear of all encumbrances, except: 1) Grant of Right-of-Way for the Erection and Maintenance of Power Lines, Poles, Wires, Cables and Underground Conduits dated April 8, 2003 and recorded on May 22, 2003 under Instrument No. 675297, in the Department of Land Management, Government of Guam, executed by Grand Rock Corporation, Ltd., grantor to Guam Power Authority, grantee. RE: A 10' x 10' strip of land extending partially across Lot No. 5360-R19NEW-4, Mangilao; 2) Mortgage dated September 11, 2008 and recorded on September 11, 2008 under Instrument No. 779076, in the Department of Land Management, Government of Guam, executed by Allegro Properties Corporation, mortgagor to Citizens Security Bank (Guam), Inc., mortgagee, which states it secures a debt in the principal amount of \$660,000.00, plus interest; 3) Assignment of Rents dated September 9, 2008 and recorded on September 11, 2008 under Instrument No. 779077, in the Department of Land Management, Government of Guam, executed by Allegro Properties Corporation, assignor to Citizens Security Bank (Guam), Inc., assignee; 4) Notice of Action dated August 15, 2014 and recorded on September 9, 2014 under Instrument No. 869322, in the Department of Land Management, Government of Guam, in favor of Allegro Properties Corporation [Note: Request for a zone variance approval of an existing 7'8" right side yard setback and 9'10" rear yard setback of an existing 2-storey, 5-unit apartment complex. (Approved

with conditions.)]; 5) Guam Law Use Commission Regular Meeting Minutes dated August 14, 2014 and recorded on September 19, 2014 under Instrument No. 869665, in the Department of Land Management, Government of Guam, in favor of Allegro Properties Corporation, request for side and rear setbacks of the building in an "R-2" (Multi-Family Dwelling) zone; 6) real property taxes not yet due and owing; and 7) all other liens, easements and encroachments of record.

Developer will obtain a partial release of the above-referenced mortgage and assignment of rental income in favor of Citizen Security Bank for each apartment unit at the time of the conveyance of such apartment unit by Developer.

§10. Management and Operation. The Bylaws of the Association of Owners of Avida Townhomes state that the Board of Directors may employ for the Association a management agent or manager to perform such duties and services as the board shall authorize, including the care, upkeep, and surveillance of the Project and the Common Elements, collection of monthly assessments from the owners, and the designation and dismissal of personnel necessary for the maintenance of the Project and the Common Elements. The Bylaws also state that each apartment unit owner shall contribute pro rata for the expense of administration of the Project and the Common Elements.

Information in Report as of January 12, 2017

The purchasers or prospective purchaser should be cognizant of the fact that this published report represents information disclosed by the Developer in the Notice of Intention, Questionnaire, Declaration, and Bylaws, dated May 8, 2015 and heard before the Commission on December 10, 2015 and filed in the Office of the Recorder, Government of Guam on January 22, 2016 as Instrument No. 887981; the Condominium Map for the Project filed in the Office of the Recorder, Government of Guam on January 15, 2016 under Instrument No. 887821; the Final Public Report filed in the Office of the Recorder, Government of Guam on February 22, 2016, under Instrument No. 889055, and the request for issuance of a First Supplementary Final Public Report dated December 19, 2016 and heard before the Commission on January 12, 2017.

Finding that Report should Issue

The Commission finds that the Developer has met and fulfilled the requirements of § 45115 of the Horizontal Property Act which establishes the provisions for the issuance of a First Supplementary Final Public Report, when reproduced shall be a true copy of the Commission's public report. The paper stock used in making facsimiles must be pink in color.

Title, Number and Date

This is a FIRST SUPPLEMENTARY FINAL HORIZONTAL PROPERTY REGIME (CONDOMINIUM) PUBLIC REPORT which is made a part of REGISTRATION NO. 168. The report, when reproduced shall be a true copy of the Commission's public report. The paper stock used in making copies must be pink in color.

GUAM LAND USE COMMISSION, PLANNING SECTION, DEPARTMENT OF LAND MANAGEMENT, GOVERNMENT OF GUAM, TAMUNING, GUAM 96913

Michael J. B. Borj

Executive Secretary

Guam Land Use Commission

GUAM U.S.A.

) ss:

CITY OF TAMUNING

ON THIS day of February, 2017, before me, a Notary Public in and for Guam, U.S.A., personally appeared Michael J. B. Borja, known to me to be the Executive Secretary of the Guam Land Use Commission, whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed on behalf of said commission for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

AOA TO

tary Public

TERESITA A.C. TOVES

NOTARY PUBLIC In and for Guam, U.S.A.

My Commission Expires: JULY 13, 2019 P.O. Box 2950 Hagaina, Guam 96932